

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

GEORGE JOSEPH,	:	4:CV-06-01999
	:	
Plaintiff	:	(Judge McClure)
	:	
v.	:	(Magistrate Judge Smyser)
	:	
DR. TODD HASKINS,	:	
DR SPRAGUE, PRIME CARE	:	
MEDICAL,	:	
	:	
Defendants	:	

ORDER

February 29, 2008

BACKGROUND:

On October 6, 2006, plaintiff George Joseph, a state prisoner at Monroe County Correctional Facility (“MCCF”), proceeding pro se, commenced this action by filing a complaint under 42 U.S.C. § 1983. Joseph’s complaint alleges that defendants violated his Eighth Amendment right to medical care.

The matter was initially referred to United States Magistrate Judge J. Andrew Smyser. After an initial screening of the complaint pursuant to 28 U.S.C. § 1915A, the remaining defendants are Dr. Todd Haskins, Dr. Sprague, and Prime Care Medical.

On July 17, 2007, defendants filed a motion for summary judgment and a

supporting brief. (Rec. Doc. Nos. 28 and 29.) On July 31, 2007, the magistrate judge ordered defendants to file a statement of material facts in support of their motion. (Rec. Doc. No. 31.) That same order directed plaintiff to file a response to defendants' motion within ten days of service of the defendants' statement of material facts. (Id.)

On August 1, 2007, defendants filed their statement of material facts. (Rec. Doc. No. 34.) The same day, plaintiff filed a response to defendants' motion. (Rec. Doc. No. 35.) This response did not address the merits of defendants' motion and simply requested that the court dismiss the motion. (Id.) Evidently realizing the deficiency of his response, on August 9, 2007, plaintiff requested an extension of sixty days to submit a brief opposing defendants' motion. (Rec. Doc. No. 36.) The magistrate judge granted plaintiff until August 27, 2007 to respond to defendants' motion. (Rec. Doc. No. 37.) On September 4, 2007, plaintiff requested an extension of another thirty days to submit an opposition brief to defendants' motion. (Rec. Doc. No. 38.) The magistrate judge granted plaintiff until October 4, 2007 to file his opposition brief. (Rec. Doc. No. 39.)

On November 13, 2007, after receiving no opposition brief from plaintiff, the magistrate judge issued a ten-page report recommending that defendants' motion for summary judgment be granted and that the case be dismissed. (Rec.

Doc. No. 40.) Specifically, the magistrate judge concluded that plaintiff had adequate opportunity to conduct discovery in the case and failed to present any summary judgment evidence in support of his claims or in opposition to defendants' motion. (Id. at 9-10.)

On November 29, 2007, because plaintiff was proceeding pro se, we granted plaintiff yet another extension of time to file a brief in opposition to defendants' motion for summary judgment. (Rec. Doc. No. 42.) Specifically, we ordered plaintiff to file his brief by December 21, 2007 and warned him that failure to do so may result in a dismissal for failure to prosecute. (Id.) On December 21, 2007, we granted plaintiff another extension of time to file his brief and gave plaintiff until February 20, 2008 to file his brief. (Rec. Doc. No. 44.) On February 17, 2008, plaintiff requested yet another extension of time to file his brief. (Rec. Doc. No. 47.)

Because plaintiff continues to request more time to file his brief and because there appears to be no end in sight to his requests for extensions of time, we will deny his latest request for an extension of time. Although he argues that he has requested legal materials from the institution where he is currently incarcerated and that these materials have yet to arrive, he neglects the fact that the magistrate judge found that summary judgment was appropriate due to a lack of evidence to support

his allegations. No legal material is required for plaintiff to provide the court with evidence in support of his allegations and avoid summary judgment. Therefore, we agree with the magistrate judge's thorough analysis that summary judgment is appropriate because plaintiff has not presented any evidence in support of his allegations. Therefore, we will adopt the magistrate judge's report and recommendation in its entirety and grant defendants' motion for summary judgment.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. United States Magistrate Judge J. Andrew Smyser's report and recommendation is adopted in full. (Rec. Doc. No. 40.)
2. Defendants' motion for summary judgment is GRANTED. (Rec. Doc. No. 28.)
3. Plaintiff's request for an extension of time is DENIED. (Rec. Doc. No. 47.)
3. Final judgment is entered in favor of defendants and against plaintiff.
4. The clerk is directed to close the case file.

s/ James F. McClure, Jr.
James F. McClure, Jr.
United States District Judge

